

## **REMARKS/ARGUMENTS**

### **1. INTRODUCTION**

Applicants have cancelled claims 62, 68, and 69 and added new claims 76-80. Accordingly, claims 58-61, 63-67, and 70-80 are pending in this application, with claims 61, 64, and 71-75 being previously withdrawn from consideration. Applicants have currently amended claims 58, 59, 63, 65, 66, and 70. Applicants respectfully request further examination and reconsideration of the application in view of the amendments and arguments.

### **2. AMENDMENTS TO THE CLAIMS**

Applicants have amended claims 58, 59, 63, 65, 66, and 70 and added new claims 76-80. Support for these amendments can be found throughout the specification and drawings, including paragraphs [0046], [0050], [0053], [0056] and Fig. 16. Applicants respectfully submit that these amendments do not add any new matter.

### **3. REJECTION OF CLAIMS 58-60, 62-63, AND 65-70 UNDER 35 U.S.C. § 112**

Claims 58-60, 62-63, and 65-70 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants have amended claim 58 to clarify whether or not the second planar body is being positively claimed in the claimed combination. Applicants have also amended claims 58 and 65 to remove reference to an upper surface of the restraint body being “generally planar” and cancelled claims 62 and 69, and Applicants respectfully submit that the rejection of these claims under the Examiner’s previous reasoning is now moot. Applicants respectfully submit that the claims, as amended, are not ambiguous or indeterminate in scope, and further, that there is sufficient support in the original description, including drawings for the amended claims. “[Even] drawings alone may provide a ‘written description’ of an invention as required by Sec. 112.” MPEP § 2163 (quoting *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1565, 19 USPQ2d 1111, 1118 (Fed. Cir. 1991)).

#### **4. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103(A)**

##### ***A. Claims 58-60 and 63***

Claims 58-60 stand rejected as being unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. D307,575 issued to Gano (“Gano”) in view of U.S. Patent No. 4,108,421 issued to Extine (“Extine”) and U.S. Patent No. 5,328,154 issued to Blatz et al. (“Blatz”). Applicants assume that claims 62-63 are also rejected as unpatentable in view of these references. Applicants respectfully submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claims 58-60 and 62-63 because one of ordinary skill in the art would not be motivated to modify the prior art references or combine the prior art references to arrive at the claimed invention.

The base reference, Gano, fails to teach or disclose at least the following: multiple planar bodies (i.e., “a first planar body” and “a second planar body”), a positional restraint body having a first and second lower surface with an engaging pocket to receive a projection, and a positional restraint body that is removable from the first and second planar body. Rather, at most, Gano teaches or discloses only a single positional restraint body. This single positional restraint body is not taught or disclosed to be attachable to and/or removable from any other planar body. Gano appears to show an element (see Fig. 6 of Gano) that extends transversely across the bottom of the body of Gano that would block and/or interfere with at least one of the projections and/or pockets that appear on the bottom surface of what the Examiner has identified as a positional restraint body.

The Examiner argues that Extine teaches that a positional restraint “may be removeably mounted on a first planar body by means of mating interfitting projections and pockets.” Office Action mailed March 14, 2008, p. 3. Applicants respectfully argue that, at most, Extine teaches a positional restraint that constrains movement of component 30 in one dimension. While component 30 cannot move in a direction perpendicular to the edges of the corrugations, it has freedom of movement in a direction parallel to the edges of the corrugations. Applicants submit that the amended claims recite a first and second lower surface of the positional restraint body that have a pocket to receive a corresponding projection such that “a loose engagement of . . .

[the] projection . . . and . . . [the] pocket . . . limits lateral movement of . . . [the] projection . . . in at least two dimensions.” This limitation is not taught or disclosed by Extine. Furthermore, once component 30 is constrained in the one dimension in Extine, the engagement in that dimension is not loose. Instead, the interface between component 30 and component 29 due to the corrugation is a tight fit in the constrained direction. Applicants submit that the amended claims recite that the pockets on the first and second lower surface of the positional restraint body receive a corresponding projection “in a non-interfering manner” and in a “loose engagement.” These limitations are not taught or disclosed by Extine.

The design choice of a pocket and projection constraining two objects in a loose engagement is important to the function of the claimed invention. When a vehicle wheel is placed on the claimed invention, the stacked objects have to be able to shift and settle due to the extreme amount of force exerted by the vehicle’s weight. The loose engagement of the pocket and projection performs at least two functions. First, it allows the extreme forces to be distributed to all the planar surfaces of the objects to reduce stress among the components because the components are allowed some relative movement. Second, it allows the system of stacked objects to maintain their position with respect to each other in two dimensions since the pocket/projection acts as both a locating and attachment scheme. This scheme allows the system to maintain stability of the multi-tiered structure. Thus, the limited scope of Extine’s removable positional restraint would not be an obvious design choice for the claimed invention in light of the need to be constrained in two dimensions in a loose engagement as explicitly recited in the claims.

Furthermore, Gano’s wheel positional restraint does not teach how to stack a positional restraint onto a multi-tiered structure. An important function of the positional restraint component of the claimed invention is to prevent movement of the vehicle wheel while on the multi-tiered surface. Gano’s restraint merely teaches a way to stop a vehicle wheel. However, it does not provide any motivation and/or suggestion on how to achieve this function on a multi-tiered structure. “If [a] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to

make the proposed modification.” MPEP 2143.01 (citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)). Gano clearly includes an element extending transversely across the bottom of the body. Although the function of the transverse element is unclear from the design patent, any attempt to removeably mount the positional restraint body of Gano would be unsuccessful because of the inclusion of this element. There is no suggestion or motivation to seek to attach the positional restraint body of Gano to another planar body.

The claimed invention achieves this function of preventing movement on a multi-tiered structure with the positional restraint component. The positional restraint provides an upper surface that makes contact with the vehicle tire. When contact is made, the extreme forces due to the vehicle's weight are distributed from the positional restraint to the rest of the multi-tiered structure. This distribution occurs because the lower surfaces of the positional restraint interface with the first and second planar bodies with a loose pocket/projection engagement. As stated above, this provides the required stability and reduction of stress between the components when supporting and positioning a vehicle wheel.

Because one of ordinary skill in the art would not be motivated to modify Gano and/or combine Gano with Extine and/or Blatz to arrive at the claimed invention, the rejection of claim 58 under 35 U.S.C. § 103(a) has been overcome and/or is improper, and Applicants request that the rejection of claim 58 be withdrawn. At least because claims 59-60 and 63 depend from independent claim 58 (and include all of the limitations thereof), Applicants respectfully submit that the rejection of claims 59-60 and 63 under 35 U.S.C. § 103(a) have been overcome and/or are improper and request that the rejection of claims 59-60 and 63 be withdrawn. Claim 62 has been cancelled, so the rejection of this claim is now moot.

#### ***B. Claims 76-80***

Applicants wish to draw the Examiner's attention to the following claims. New claims 76-80 recite patentable subject matter apart from their dependence on claim 58. In particular, claim 76 recites that lower surfaces of the positional restraint may be at different vertical heights. Nothing in Gano or Extine teaches or discloses a positional restraint body with first and second

lower surfaces that are at different vertical heights in order to be stackable on a multi-tiered structure. Claim 77 recites that the upper surface of the positional restraint body is configured for engagement with the vehicle wheel along the entire length of the upper surface of the positional restraint body. Accordingly, the upper surface of the positional restraint may be shaped in the same curvature as that of the vehicle wheel. The Examiner asserts that Extine teaches that the positional restraint may have a curvilinear shape. However, Extine fails to teach or disclose an upper surface that is configured to support a vehicle wheel, is configured for engagement with the vehicle wheel along its entire length, and may have a curvilinear shape. It would not be obvious to merely change the shape of the ramp set forth in Gano because it is unclear whether such a modified ramp would be able to withstand the force of supporting the vehicle wheel as recited in the claims. Claim 78 recites that the structure of the positional restraint may be comprised of a webbing design. Neither Gano or Extine teaches or discloses the use of a discontinuous webbing in connection with a positional restraint body. Claim 79 recites that the relative movement is allowed between the pocket and projection of both first and second planar bodies during mounting of the vehicle wheel to allow for adjustment to the weight of the vehicle wheel. Nothing in Gano or Extine teaches or discloses these limitations. Claim 80 recites that when the vehicle tire is stopped by the positional restraint, the tire is substantially centered over the multi-tiered structure. Again, nothing in Gano or Extine teaches or discloses this limitation, especially since neither Gano or Extine is configured for use with a multi-tiered structure.

### ***C. Claims 65-70***

Claims 65-70 stand rejected as being unpatentable under 35 U.S.C. § 103(a) over Gano in view of Extine and Blatz and further in view of U.S. Patent No. 6,910,691 issued to Shih (“Shih”) and U.S. Patent No. 4,699,602 issued to Giorgi (“Giorgi”). Applicants respectfully submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claims 65-70 because one of ordinary skill in the art would not be motivated to modify the prior art references or combine the prior art references to arrive at the claimed invention.

Similar to reasons stated for claim 58, claim 65 is not obvious from the combination of Gano in view of Extine and Blatz because neither invention provides any motivation and/or suggestion on how to achieve the important functions performed by the claimed invention. As stated above, stacking the positional restraint onto a first planar body requires a distribution of the necessary forces in order to reduce stress as well as providing a locating and attachment scheme between the two components. Furthermore, the design of the heel portion of the positional restraint allows the component distribute the extreme wheel forces into the ground surface when not engaged with a second planar body.

Furthermore, Applicants respectfully disagree that claim 65 is obvious over Gano in view of Extine and Blatz, and further, in view of Shih and Giorgi. Both Shih and Giorgi is limited to at most teaching how a heel may interfit with other planar portions. However, Applicants do not suggest that the claimed invention is merely providing a heel on the positional restraint to interfit with other planar portions. The design of a heel portion on the positional restraint accomplishes the function of distributing the extreme wheel forces when the heel is engaged with the ground surface. Moreover, the heel portion is designed with pockets such that it may also be engaged with a second planar body and receive a projection in a loose engagement. As stated before, this loose engagement is important for distributing stress while maintaining integrity of the multi-tiered structure. While the Examiner argues that Shih and Giorgi show how blocks may have planar portions with a heel to interfit with other planar portions in a vast multitude of planar arrays, none of the cited references show blocks configured with a lower surface with at least one engaging pocket which may allow not only for increased stability when stacking the positional restraint, but also provides for the heel to contact the ground or underlying surface when the positional restraint body is not stacked (see paragraph [0056]).

Because one of ordinary skill in the art would not be motivated to modify Gano and/or combine Gano with Extine and/or Blatz to arrive at the claimed invention, the rejection of claim 65 under 35 U.S.C. § 103(a) has been overcome and/or is improper, and Applicants request that the rejection of claim 65 be withdrawn. At least because claims 66-67 and 70 depend from independent claim 65, Applicants respectfully submit that the rejection of claims 66-67 and 70

under 35 U.S.C. § 103(a) have been overcome and/or are improper and request that the rejection of claims 66-67 and 70 be withdrawn. Claims 68-69 have been cancelled, so the rejection of these claims is now moot.

#### **4. CONCLUSION**

A genuine effort to resolve all issues has been made. For at least the above cited reasons, all claims pending in this Application are now believed to be allowable. Applicants respectfully request that any questions or concerns be directed to Applicants' undersigned attorney.

Respectfully submitted,

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